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Montana Solid Waste Contractors
Growing with Montana

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November 7, 2014

Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

RE: PSC Docket No. T-14.23.DR

Dear Public Service Commissioners:

The Montana Solid Waste Contractors Association, on behalf of the attached list of concurring members of the Association, hereby submits the following comments in response to the *Petition for Declaratory Ruling* filed with the PSC on September 26, 2014 by Bull Mountain Sanitation, LLC. These comments are submitted in accordance with the two-week grace period granted for such comments at the PSC's October 21, 2014 Work Session. Please note that members of the Association may also be submitting additional comments in response to the Petition.

The members of the Montana Solid Waste Contractors Association are greatly concerned about the implications of the Petition filed by Bull Mountain. As described in Bull Mountain's Petition, Bull Mountain is seeking to have the PSC determine that the regulated hauling exemption found in § 69-12-102(c), Mont. Code Ann.—which states that an exemption is provided for haulers limiting their hauling to “in a city, town or village” under 500 persons, or the commercial areas adjacent thereto—means that Bull Mountain, and likewise any unregulated hauler, may haul everywhere outside of cities, towns, or villages with populations over 500, meaning throughout rural Montana. This is contrary to the plain language of the exemption, and a ruling in favor of Bull Mountain would be detrimental to the safety and convenience of all Montanans.

First and foremost, the declaration Bull Mountain seeks is directly contrary to the statutory hauling exemption. The hauling exemption precludes regulation only for those persons limiting hauling to “in cities, towns, or villages” with fewer than 500 persons. The statute does not authorize an exemption for “rural areas” or “unincorporated areas,” which constitute the vast majority of Montana. While the terms “city” and “town” are defined by Montana statute, the term “village” is not defined under Montana law. However, no ordinary person would ever consider that “village” means any rural or unincorporated area—no farmer or rancher thinks their farm or ranch constitutes a “village,” and the PSC shouldn't disagree. Based on the statutory exemption language alone, the PSC should deny Bull Mountain's Petition.

Further, the PSC's acceptance of Bull Mountain's position would be bad for Montanans. PSC regulation of solid waste haulers ensures that certain minimum requirements are met and, regulated haulers are required to carry certain minimum insurance. Mont. Code Ann. § 69-12-402; Mont. Admin. R. 38.3.701 through 709. A regulated hauler who does not comply with these requirements can have their certificate revoked. Mont. Admin. R. 38.3.120. Thus, regulation by the PSC ensures the safety of Montanans by ensuring that anyone harmed by a regulated hauler will be adequately compensated for any damages incurred or injuries suffered, through the insurance which regulated haulers are required to carry. Unregulated haulers do not have any requirement to carry insurance, and any person damaged or injured by an unregulated hauler faces uncertainty as to whether they will be compensated for damages or injuries suffered at the hands of unregulated haulers. Simply put, expanding unregulated solid waste hauling to all "rural areas" gives ordinary Montanans less protection from potential injury, and is bad for Montanans.

Relatedly, PSC regulation of haulers ensures that all Montanans have access to solid waste disposal services. Regulated haulers are required to provide garbage service to anyone requesting service within the hauler's permitted geographical area. Mont. Admin. R. 38.3.1201(1). Conversely, unregulated haulers face no such requirement. This requirement is precisely what guarantees that every person in rural Montana can obtain solid waste hauling services. If Bull Mountain prevails, and the PSC determines that unregulated solid waste haulers may haul garbage anywhere outside of cities and towns over 500 people, these unregulated haulers will be able to pick up the most profitable customers in an area (especially since they do not have the insurance or reporting requirements, and the monetary outlays therefor). This will leave the regulated haulers with only distant, rural customers they are required to serve, but who may not provide a positive revenue stream. Such unfair competition could easily push regulated haulers out of business, and the effect of this would be that, once a regulated hauler is pushed out of business, solid waste disposal services would cease for the most rural households in Montana. This is bad policy and bad for the citizens of Montana.

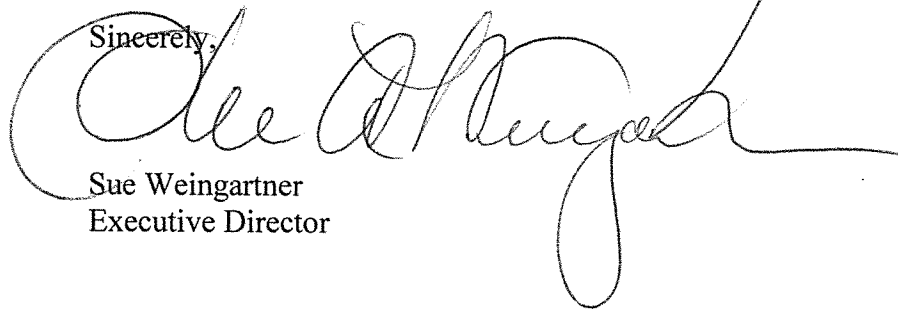
Moreover, if regulated haulers are pushed out of business, and no entities are required to serve those distant rural customers who an unregulated hauler might choose not to serve, those rural former customers with no access to service will be left with few options to dispose of their garbage, especially in counties that don't have green box drop-off locations. Unfortunately, this lack of basic service could even lead to illegal disposal of garbage, resulting in potential public health issues and expensive remediation. Expanding unregulated solid waste hauling to all "rural areas" will, in reality, result in fewer services for rural folks, to the detriment of all Montanans.

The exemption Bull Mountain is attempting to distort has been part of the Montana Motor Carrier Code for many decades and, to my knowledge and that of our members, and it has never been controversial because its meaning is obvious. Montana's regulation system for solid waste haulers is not broken—it mandates insurance protection to keep ordinary Montanans safe, and ensures that all Montanans have access to solid waste disposal services, while providing a very limited exemption for small communities. It has worked for the benefit of rural Montanans for decades. Agreement with Bull Mountain's Petition would completely unravel and destabilize this system, harming Montanans and making access to solid waste disposal services a guarantee only for those living in urban areas.

For all the above reasons, the PSC should deny Bull Mountain's Petition, and find that the statutory exemption is limited to just what it says—solid waste hauling “in cities, towns, and villages” under 500, and the adjacent commercial areas thereto. As such, Bull Mountain should be limited to only that area of Musselshell County that falls within the statutory exemption for cities, towns, and villages under 500 people, which is Melstone.

Thank you for the opportunity to provide comment, and the Solid Waste Contractors look forward to the PSC's decision.

Sincerely,

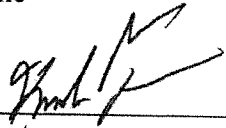
A large, stylized handwritten signature in black ink, appearing to read 'Sue Weingartner', written over the typed name.

Sue Weingartner
Executive Director

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Kirk Treace
Name

Republic Services of Montana #1581
Company PSC Certificate No.


Signature

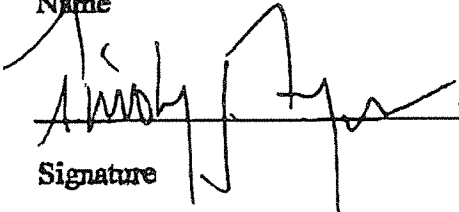
I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Timothy J. Flynn
Name

Anaconda Disposal Service
Company

1642
PSC Certificate No.

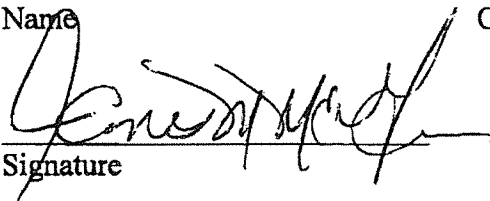
Signature

 - PRESIDENT

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

JAMES MCGEE	MCGEE CORPORATION	# 1765	1765
		# 4448	4448
		# 9324	9324
		# 2530	2530

Name _____ Company _____ PSC Certificate No. _____

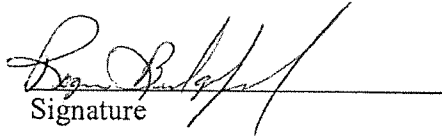
Signature  _____

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Regen Bridgeford
Name

Montana Waste Systems
Company

2717
PSC Certificate No.


Signature

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Josh Brown
Name


Signature

EVERGREEN DISPOSAL
Company

KALISPELL, MT

2710
PSC Certificate No.

Sue Weingartner

Executive Director, Montana Solid Waste Contractors' Association

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Jerry Snell Kootenai Disposal 2757

Name

Company

PSC Certificate No.

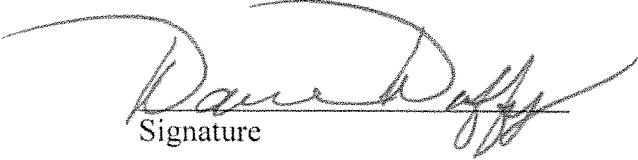


Signature

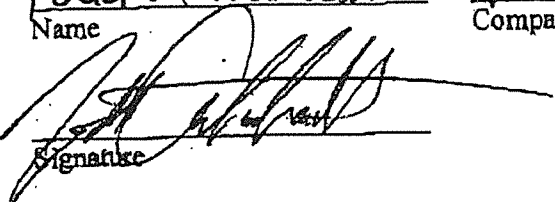
I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

DAVE Duffy
Name

City County Sanitation 2879
Company PSC Certificate No.


Signature

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Todd Archambeault T & R Trucking, Inc. 3145 D
Name Company PSC Certificate No.

Signature

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Roger Bridgeford
Name

Roger Bridgeford
Signature

Montana Waste Systems DBA 3325
Company North Valley Resurf PSC Certificate No.

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Clark Mader
Name

Lewistown Disposal
Company

7913
PSC Certificate No.

Clark Mader
Signature

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Kelly A. Reid
Name

Missoula City Sanitation
Company

9418
PSC Certificate No.

Kelly A. Reid
Signature

I concur with the comments submitted by Sue Weingartner on behalf of the Montana Solid Waste Contractors Association:

Josh Brown
Name

Bitterroot Disposal
Company
Hamilton, MT

9447
PSC Certificate No.


Signature